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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/567,898

10/03/2006

Paul Franciscus Marie Verstraeten

T-155

7284

34539

7590

03/25/2009

MARK ZOVKO

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EXAMINER

KASTLER, SCOTT R

ART UNIT

PAPER NUMBER

1793

MAIL DATE

DELIVERY MODE

03/25/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/5/2009 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Krowech et al. Krowech et al teaches a lance device (36) including a frame, guide and pneumatic reciprocating drive means, in the embodiments of figures 2-4 for example, which can be operated in the manner recited in the instant claims, thereby showing all aspects of the above claims.

Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Woodings et al. Woodings et al teaches a lance device (the drill shaft) including a frame, guide and reciprocating pneumatic drive means, in the embodiments of figures 2 and 3 for example, which can be operated in the manner recited in the instant claims, thereby showing all aspects of the above claims since the drill meets the general description of a lance.

Response to Arguments

Applicant's arguments filed on 3/5/2009 have been fully considered but they are not persuasive. Applicant's argument movement in a pulsating manner is not desired by either of Woodings et al or Krowech is not persuasive because as stated previously, since the references can perform the function, the actual use to which the references are intended to be put cannot be relied upon to fairly further distinguish the instant apparatus claims. see MPEP 2114. Applicant's further argument that movement in a "pulsating" manner is not possible with either of Woodings et al and Krowech is also not persuasive since the term "pulsating" without any recitation of the periodicity of the pulsating movement could be fairly met by any back and forth movement by the references with any period, even as slow as one back and forth movement per week, for example. Applicant's further arguments regarding the distance of the pulsating movement (a series of small steps) is also not persuasive at least because again, this limitation is not expressly present in the claims and in any event, without a statement as to how "small" the "small steps" are, any movement would meet this limitation.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Kastler whose telephone number is (571) 272-1243. The examiner can normally be reached on Monday through Friday.

Art Unit: 1793

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on (571) 272-1244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Scott Kastler/
Primary Examiner, Art Unit 1793

sk

Application Number
10/567,898



U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

EXAMINER'S CASE ACTION WORKSHEET

Copy (Ctrl+C)	Palm Transaction Code		Legal Instrument Examiner
	1340 60485179310567898		

CHECK TYPE OF ACTION

DATE OF COUNT

<input type="checkbox"/> Non-Final Rejection	<input type="checkbox"/> Restriction/Election Only	<input checked="" type="checkbox"/> Final Rejection
<input type="checkbox"/> Ex Parte Quayle	<input type="checkbox"/> Allowance	<input type="checkbox"/> Advisory Action
<input type="checkbox"/> Examiner's Answer	<input type="checkbox"/> Reply Brief Noted	<input type="checkbox"/> Non-Entry of Reply Brief
<input type="checkbox"/> Defective Notice of Appeal	<input type="checkbox"/> Interference Disposal SPE _____ (Approval for Disposal)	<input type="checkbox"/> Suspension (Examiner-Initiated) SPE _____ (initial)
<input type="checkbox"/> Defective Appeal Brief	<input type="checkbox"/> SIR Disposal (use only after FAOM)	<input type="checkbox"/> Supplemental Examiner's Amendment
<input type="checkbox"/> Miscellaneous Office Letter (With Shortened Statutory Period Set)	<input type="checkbox"/> Notice of Non-Responsive Amendment (With One Month Time Period set)	<input type="checkbox"/> Miscellaneous Office Letter (No Response Period Set)
<input type="checkbox"/> Abandonment after BPAI Decision	<input type="checkbox"/> Supplemental Action	<input type="checkbox"/> Response to Rule 312 Amendment
<input type="checkbox"/> Letter Restarting Period for Response (e.g., Missing References)	<input type="checkbox"/> Interview Summary	<input type="checkbox"/> Authorization to Change Previous Office Action SPE: _____ (Initial)
<input type="checkbox"/> Abandonment	<input type="checkbox"/> Express Abandonment Date: _____	<input type="checkbox"/> Other

Examiner's Name: Scott Kastler

AU: 1793

Office Action Summary	Application No. 10/567,898	Applicant(s) VERSTRAETEN, PAUL FRANCICUS MARIE	
	Examiner Scott Kastler	Art Unit 1793	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |